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99TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT 99-260
Part I

RESOLUTION OF INQUIRY CONCERNING AMERICAN PRISONERS OF WAR IN SOUTHEAST ASIA

SEPTEMBER 10, 1985.—Ordered to be printed

Mr. HAMILTON, from the Permanent Select Committee on Intelligence, submitted the following

ADVERSE REPORT

[To accompany H. Res. 226 which on July 17, 1985 was referred jointly to the Committees on Armed Services and Intelligence]

The Permanent Select Committee on Intelligence, to whom was referred the resolution (H. Res. 226) directing the Secretary of Defense to furnish certain information to the House of Representatives relating to American prisoners of war in Southeast Asia, having considered the same, report unfavorably thereon and recommend that the resolution do not pass.

COMMITTEE ACTION

On July 17, 1985, House Resolution 226 was introduced by the Honorable William M. Hendon and referred jointly to the Committee on Armed Services and the Permanent Select Committee on Intelligence. The resolution directs the Secretary of Defense to furnish to the House, not later than ten days following adoption of the resolution, full and complete information regarding all Defense Intelligence Agency case files and analyses concerning reports of live Americans in Southeast Asia from March 23, 1977 to the date of the adoption of the resolution.

Upon the introduction of the resolution, the Committee staff was directed to meet with appropriate officials of the Defense Intelligence Agency to assess the manning, funding, methodology, and operations of the DIA's POW/MIA Division. The Committee staff was also tasked to assess the professionalism and quality of the Division's finished analyses of POW/MIA-related intelligence. In particular, the staff examined a representative sampling of POW/MIA "live sighting" files. Finally, the staff examined DIA security procedures and practices in responding to Congressional requests for information concerning POW/MIA matters.

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At his request, the staff also met with the sponsor of the resolution, Mr. Hendon, to receive his evaluation of DIA's performance and capabilities with regard to live sighting cases. Finally, the staff met with the Honorable Gerald B.H. Solomon, Chairman of the Task Force on American Prisoners and Missing in Southeast Asia.

On September 5, the Committee conducted a hearing in executive session to hear from officials of the Defense Intelligence Agency, from the Honorable Stephen J. Solarz, Chairman of the Foreign Affairs Subcommittee on Asian and Pacific Affairs, from the Honorable Gerald B.H. Solmon, a member of the Subcommittee and the Chairman of the Task Force, and from the Honorable Benjamin A. Gilman, Vice Chairman and formerly Chairman of the Task Force. After hearing the testimony of these witnesses and their responses to Members' questions, the Committee ordered the resolution reported adversely.

BACKGROUND

The Committee's understanding of the concern which underlies the introduction of House Resolution 226 is that free and convenient access by any Member of the House to the files of the DIA live sightings of POW's and MIA's in Southeast Asia convince Members of the House that there were Americans being held prisoner in Southeast Asia and pursuade them there was an institutional bias at DIA against accepting this fact. The method for achieving these ends would be to require the transfer of DIA's live sighting files to the House. In so long, the resolution would bypass the mechanism of the Task Force and its sponsor, the Subcommittee on Asian and Pacific Affairs, together with the security procedures and working relationship that those bodies had developed with the DIA for the oversight and review of DIA activities.

The Committee reviewed in detail the role of the Task Force on American Prisoners and Missing in Southeast Asia. The Task Force, as indicated above, operates under the aegis of the Subcommittee on Asian and Pacific Affairs of the Foreign Affairs Committee. The Task Force has the principle responsibility for overseeing the work of the intelligence community in handling POW/MIA cases—work for which the DIA is the lead agency. The Task Force is made up of interested members of the Foreign Affairs and of any other Members of the House interested in the POW/MIA issue.

The Task Force may review the file of any POW/MIA case and question DIA officials concerning it. Hearing and subpena power are held by the Subcommittee, which sponsors regular hearings on POW/MIA developments and frequent and thorough examination by the Task Force of DIA files. In addition, the Task Force promptly investigates all allegations and issues concerning POW/MIA matters as they arise. For instance, the Task Force in 1984 investigated the claim of the sponsor of the resolution, Mr. Hendon, that there had been a cover-up of information of live prisoners in Southeast Asia. That review covered about 80 case files cited by Mr. Hendon. The conclusion of the Task Force was that there had been no government coverup. The Task Force also said that it "generally satisfied that all options available to DIA were exercised" in the cases which it reviewed. The Task Force also made suggestions for

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improvements in DIA capabilities and practices. These recommendations were adopted.

DIA testimony and that of the Congressional witnesses established that the policy of the Administration assumes at least some Americans are still held captive in Southeast Asia. Intelligence collection priorities and DIA resource allocations are the highest ever assigned to the POW/MIA topic. DIA efforts are directed at impartial assessments of live sighting cases based on a full range of intelligence collection activities. DIA's POW/MIA Division personnel, most of whom are Vietnam veterans, thoroughly investigate and cross reference each report. No live sighting case is closed, regardless of its classification as resolved or unresolved.

It is the policy of the DIA to respond to the request of any Member of the House for information on POW/MIA cases. DIA provides briefings and permits the review of materials under circumstances which protect the classified intelligence information from which they are derived. All the Congressional witnesses stated unequivocally that DIA had responded fully and without exception to all requests from the Task Force and Subcommittee for information on all POW/MIA matters. It was also the testimony of these witnesses that the Subcommittee and the Task Force believed strongly in the need to protect classified intelligence files and conducted their proceedings in a manner that ensured this end. At the same time, witnesses made clear that all cases where DIA believed there was unresolved live sightings were briefed not only to the Task Force and Subcommittee but also to the National League of Families of American Prisoners and Missing in Southeast Asia.

The Committee was greatly impressed by the amount of work done by the Task Force, particularly its operational philosophy of leaving no stone unturned in its review of POW/MIA matters and its unequivocal rejection of suggestions that there had been a cover-up within the Administration or DIA of credible information about Americans held prisoner in Southeast Asia. Either the Subcommittee or the Task Force have conducted a total of 41 hearings with 101 witnesses, producing 2,409 pages of testimony on POW/MIA matters, since the fall of Vietnam and Loas and Cambodia. The Committee believes that the work of the Task Force, which is largely unsung and often protracted, deserves the thanks of the House.

In addition to making a very positive assessment about the diligence and effectiveness of Task Force oversight of DIA and intelligence community performance on POW/MIA matters, the Committee also examined the alternate framework which would be established by the resolution of inquiry for Congressional review of POW/MIA live sighting cases. The Committee determined that the effect of the resolution would be to bypass the Task Force and the Subcommittee. The resolution provided no security framework for the appropriate handling and storage of DIA files. The Committee considers this deficiency to be a significant one. POW/MIA cases involves not only legitimately classified intelligence information but information affecting the privacy of the families of those who are unaccounted for in Southeast Asia. Such information requires rigorous, systematic protection.

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The Committee's review convinced Members that both the Task Force and the Subcommittee conduct careful and adequate oversight of POW/MIA matters. The Committee's examination, its regular review of DIA activities, and the Task Force's judgment on DIA performance on POW/MIA matters convinces the Committee that DIA performs unbiased, professional, and thorough analyses of POW/MIA live sighting cases. Finally, the Committee concluded that the alternative offered by the resolution of inquiry posed important security problems and a lack of guidance for House review of POW/MIA live sighting files. In view of these conclusions, the Committee voted to report H. Res. 226 adversely.

COMMITTEE POSITION

On September 5, 1985, the Permanent Select Committee on Intelligence, a quorum being present, ordered the resolution reported adversely by voice vote.

OVERSIGHT FINDINGS

With respect to clause 2(l)(3)(A) of rule XI of the House of Representatives, the Committee's findings and recommendations concerning House Resolution 226 are contained in the body of this report.

FISCAL YEAR COST PROJECTIONS

With respect to clause 2(l)(3)(A) of rule XI of the House of Representatives and section 308(a) of the Congressional Budget Act of 1874, this resolution does not provide new budget authority or tax expenditures.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

With respect to clause 2(l)(3)(A) of rule XI of the House of Representatives, the Committee has received no report from the Congressional Budget Office.

RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

With respect to clause 2(l)(3)(D) of rule XI of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to the subject of this resolution.

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